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17 Financial Credit Clearing House

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(San Francisco Division)

SANDRA MA,

Case No. C 08-02131 MHP

Plaintiff,

JOINT CASE MANAGEMENT
STATEMENT AND PROPOSED ORDER

v.

FINANCIAL CREDIT CLEARING HOUSE
– 1956 INCORPORATED, Inc., dba Butler,
Robbins, and White

CASE MANAGEMENT CONFERENCE
DATE: July 28, 2008
TIME: 4:00 p.m.

Defendant.

The Honorable Marilyn Hall Patel

1 Pursuant to Civil Local Rules ("Civ. L.R.") 16-9, the parties jointly submit this
2 Case Management Statement and Proposed Order. The parties make the following
3 recommendations and representations:
4

5 **1. JURISDICTION AND SERVICE**

6 Plaintiff filed her complaint in Alameda County Superior Court. Defendant removed
7 the case based on Plaintiff's Federal Fair Debt Collection Practices Act claim, 15 U.S.C.
8 §1692 *et. seq.* There are no issues with respect to jurisdiction and venue; all parties have been
9 served.
10

11 **2. DESCRIPTION OF THE CASE:**

12 Plaintiff filed this lawsuit contending that Defendant Financial Credit Clearing House
13 – 1956 Incorporated, Inc., dba Butler, Robbins, and White ("FCCH") committed several
14 violations of fair debt collection statutes in its attempt to collect a debt allegedly owed by
15 plaintiff for medical care. Plaintiff alleges the following:
16

17 (1) that FCCH's first collection letter to Ms. Ma did not include the disclosure
18 required by Cal Civil Code §1812.700.
19
20 (2) that during the entire month of July 2007, FCCH called Ms. Ma and her mother
21 every day even though she told defendant that she was covered under Medi-Cal
22 and that Medi-Cal should be contacted for payment.
23
24 (3) that Defendant threatened Ms. Ma and her mother with a lawsuit and made a threat
25 to take away her mother's home.
26
27 (4) that Defendant made racial remarks to plaintiff's mother, namely that she "should
28 go back to China" because "she doesn't know the law" and continued to make
telephone calls with unreasonable frequency to her residence,

1 Plaintiff alleges that in so doing defendant FCCH violated the following codes: Cal
 2 Civil Code §1812.700; the Federal Fair Debt Collection Practices Act, ("FDCPA") 15 U.S.C.
 3 §§1692e, 1692e(4), 1692e(5), 1692(10), 1692d and 1692f; Cal. Civil Code §§1788.17,
 4 1788.10(e), and 1788.11(d) (the "Rosenthal Act"). In addition, plaintiff contends that
 5 defendant committed the tort of Invasion of Privacy.

6 Defendant denies all of the material allegations of the complaint, and denies it has
 7 violated section 1812.700 of the California Civil Code, the FDCPA, the Rosenthal Act, or that
 8 it has invaded her privacy. Defendant has filed an Answer to the complaint which sets forth
 9 its affirmative defenses to Plaintiff's claims.
 10

11 **3. LEGAL ISSUES**

12 The principle legal issues include: 1) whether Defendant violated Cal. Civil Code
 13 §1812.700; 2) whether Defendant violated the FDCPA, 15 U.S.C. §1692 *et seq.*, 3) whether
 14 Defendant violated the Rosenthal Act, Cal. Civil Code §1788 *et seq.*; 4) whether Defendant
 15 invaded plaintiff's right to privacy; 5) if Defendant is found to have violated any statute,
 16 whether any of its stated affirmative defenses are applicable; 6) what damages, if any, are
 17 recoverable by Plaintiff; 7) whether Plaintiff is entitled to recover attorneys' fees and costs
 18 and, if so, in what amount; and 8) whether Defendant is entitled to recover attorneys' fees and
 19 costs and, if so, in what amount.
 20

21
 22 **4. MOTIONS**

23 There are no motions pending at this time. Each party reserves the right to move for
 24 summary judgment and/or partial summary adjudication.
 25

26
 27 **5. AMENDMENT OF PLEADINGS:**

28 The parties propose an October 1, 2008 deadline for amending pleadings.

1 **6. EVIDENCE PRESERVATION:**

2 Plaintiff's attorneys have already collected and will preserve copies of all documents
3 referred to in the complaint.

4 Defendant has directed its relevant employees to preserve all documents, in paper or
5 electronic form, related to the subject matter of this case.

6

7 **7. DISCLOSURES**

8 The parties will serve their initial disclosures on July 21, 2008.
9

10

11 **8. DISCOVERY**

12 No discovery has been taken. The discovery limits set out by the Federal Rules of
13 Civil Procedure should apply.

14

15 **9. CLASS ACTIONS**

16 Not applicable.

17

18 **10. RELATED CASES**

19 The parties know of no related cases.
20

21 **11. RELIEF**

22 Sandra Ma seeks statutory damages of \$3,000, actual damages of \$25,000 for
23 emotional distress, and punitive damages. She also seeks attorney's fees and costs.

24 Defendants will request that the Court enter judgment for Defendant on all claims.
25 Defendants reserve the right to seek appropriate sanctions, including an award of the costs and
26 attorneys' fees incurred in this action.

12. ALTERNATIVE DISPUTE RESOLUTON

The parties filed a Stipulation and Proposed Order Selecting an ADR process and the ADR process that the parties jointly requested is: Mediation. The parties intend to mediate at the earliest possible date.

13. CONSENT TO MAGISTRATE FOR ALL PURPOSES

The case was assigned to Judge Marilyn Hall Patel. The parties do not consent to reassignment.

14. OTHER REFERENCES

The parties do not believe that this case is suitable for assignment to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. NARROWING OF ISSUES

The parties believe that this case presents relatively simple issues, and that alternative procedures are not necessary to narrow the issues further. However, the parties anticipate that many facts, including but not limited to the authenticity and admissibility of key documents, can be stipulated to in advance of trial and thus conserve the parties' and the court's resources.

16. EXPEDITED SCHEDULE

The parties do not believe that this is the type of case that should be handled on an expedited basis with streamlined procedures.

17. SCHEDULING

2 The parties propose the following dates:

4 <u>Event</u>	5 <u>Date</u>
Last Day to Join Parties and Amend Pleadings:	October 1, 2008
Fact Discovery Cutoff:	January 15, 2009
Initial Expert Designation/Report:	January 31, 2009
Rebuttal Expert Designation/Report:	February 27, 2009
Expert Discovery Cutoff:	March 31, 2009
Last Day to File Dispositive Motions:	March 18, 2009
Last Day for Hearing on Dispositive Motions:	June 01, 2009
Pre-Trial Conference:	June 15, 2009
Trial:	July 13, 2009

18. TRIAL

18 This matter may be tried to a jury. The parties estimate that the trial will last between
 19 two and four days depending on the result of any motion for summary judgment.

19. DISCLOSURES OF NON-PARTY INTERESTED ENTITIES OR PERSONS

23 Both parties have filed the Certification of Interested Entities or Persons required by
 24 Civil Local Rule 3-16.

20. OTHER MATTERS

27 The parties do not wish to address any other matters in this Joint CMC Statement.

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2 KATHARINE & GEORGE ALEXANDER
3 COMMUNITY LAW CENTER
4

5 Dated July 18, 2008
6
7

8 By: /s/
9 Reema Diwan, Certified Law Student*
10 (CLS #21052)
11 For plaintiff Sandra Ma
12

13 Dated: July 18, 2008
14

15 By: /s/
16 Scott Maurer, Supervising Attorney*
17 (SBN No. 180830)
18 (smaurer@scu.edu)
19 Attorney for Plaintiff Sandra Ma
20

21 SIMMONDS & NARITA LLP
22

23 Dated: July 18, 2008
24

25 By: /s/
26 Robin M. Bowen (SBN No. 230309)
27 (rbowen@snllp.com)
28 Attorney for Defendant Financial Credit
Clearing House
29

30 CASE MANAGEMENT ORDER
31

32 The Case Management Statement and Proposed Order is hereby adopted by the Court
33 as the Case Management Order for the case and the parties are ordered to comply with this
34 Order.
35

36 Dated: _____
37

38 Marilyn Hall Patel, United States District Judge
39

40 *Pursuant to the State Bar rules governing the practical training of law students
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